



Week 4: Student and Personnel Management

Overview

In this week's assignment, you will complete your work with Joseph. Your final step will be to make suggestions about how management policies and procedures for special education students at your school can be improved.

To complete the assignment, you must familiarize yourself with both statewide special education policies and those in place at your district and school. The assignment also requires you to use knowledge gained from your lectures and readings and from communication with leaders at your school, including your principal, special education coordinator, and classroom teachers. You are expected to cite the relevant law and/or policy that you used to formulate your answers.

Rubric

Use this rubric to guide your work.

Week 4: Student and Personnel Management	Accomplished	Proficient	Needs Improvement	Unacceptable
Investigating Complaints	Cites course material in thoroughly explaining procedures for investigating complaints against school personnel, including proper documentation techniques (3 points)	Explains some actions that should be taken when investigating complaints against a school employee (2 point)	Provides a broad response that lacks detail (1 point)	Does not describe processes for effective investigation of school personnel (0 points)
Manifest Determination	Cites course material in explaining manifest determination hearings and outlines in detail procedures for disciplining special education students (3 points)	Explains in general terms the possible outcomes of a manifest determination hearing (2 point)	Provides a broad response that lacks detail (1 point)	Does not explain possible outcomes of a manifest determination hearing (0 points)
Appeals	Cites course material in explaining the appeals process regarding student discipline (3 points)	Demonstrates general understanding of the appeals process related to student discipline cases (2 point)	Provides a broad response that lacks detail (1 point)	Does not demonstrate understanding of the disciplinary appeals process (0 points)
In-Depth Analysis	Uses information from course materials and personal interviews to provide in-depth analysis of school or district special education policies and make suggestions for improvement (4 points)	Provides general suggestions for how to improve school or district special education policies (3 points)	Provides a broad response that lacks detail (1 points)	Does not provide suggestions for improvement of school or district special education policies (0 points)

Mechanics	No or few errors in grammar, spelling, or punctuation. (1 point)			Responses lack clarity and depth and/or have multiple errors in grammar, spelling, or punctuation. (0 points)
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Week 4: Student and Personnel Management

Directions:

Refer to your lectures and readings from throughout the course to answer the following questions related to investigating complaints against school employees, disciplining a special education student, personnel documentation, and school liability.

One morning, you hear a commotion coming from Joseph's classroom. He is shouting and swearing at his teacher, and you are concerned that he may become violent. You call in campus security to restrain him. You call Joseph's mother to your office following the incident, and she claims that the teacher has been antagonizing Joseph. She says that the teacher is resentful of the accommodations that have to be made for Joseph and has ignored his IEP. She also claims that the teacher is trying to embarrass Joseph in front of his classmates, which was the cause of his disruptive behavior in class that day.

Workspace

How will you go about investigating the parent's claim that Joseph is being singled out and discriminated against in class in a way that will ensure that you are not indifferent to the claim?

When a complaint is received, it must be given immediate attention, and an investigation must begin immediately. In order to investigate this claim I would (in accordance with District policy) conduct personal interviews with the person making the report (in this case both Joseph and his mother), the person against whom the report was filed (Joseph's teacher), and any others with knowledge of the circumstances surrounding the allegations. My investigation would include analysis of any information or documents related to the allegation, including review of any video recordings from cameras that might have had a view of the event and/or its immediate preceding and proceeding events. I would review the personnel file of the teacher, paying particular attention to performance evaluations and any reprimands or directives. I would also review the records of Joseph's past ARD meetings looking for evidence of past behavioral problems in this specific teacher's class, looking for a pattern to see if most of the behavioral outbursts were centered on the presence of this particular teacher. At this point, the investigation would be well documented, but would be classified as informal. If the informal investigation showed there was no merit to the claims of Joseph's mother, I would retain all notes, evidence and documentation I had gathered in a confidential file for future reference in case I needed to prove I was not indifferent, and notify Joseph's mother as to my finding of no merit to her claim. Joseph's mother would then have the right of appeal to my superintendent and School Board, as well as to formal Due Process hearings.

If during your investigation you discover that Joseph's mother's claims do have validity, how will you go about documenting this teacher's behavior? What is your district policy regarding actions that can be taken in this case?

If the results of my informal investigation led me to believe the claims had validity, I would then move on to a formal documented investigation which includes providing the teacher with written notice of the complaint, giving them access to any and all evidence against them, and taking possible actions including temporary removal of the teacher from their regular assignment while the investigation proceeds. The investigation would be designed to determine whether or not the teacher engaged in prohibited conduct as defined by District policy. FERPA and District policy require that during this investigation, the privacy of all individuals must be protected to the extent possible. During this phase of the investigation I would also have formally involved my superintendent in the investigation and begun to consult with District legal counsel.

District policy states that if the results of the investigation find that prohibited conduct occurred, the District must take appropriate disciplinary or corrective action calculated to address the conduct. This can range from requiring the teacher to attend specialized professional development, to reassignment, suspension with or without pay, termination, and even possible legal or criminal action depending upon the nature of the prohibited conduct. In extreme cases, the teaching certification of the teacher may be revoked. The teacher would of course have the right to due process appeals starting with the superintendent and/or the School Board, and if revocation of teacher certification is at stake, appeals would include hearings with the state Board of Education.

Who will participate in the meeting in which potential punishments are discussed? How will Joseph's ARD committee determine the appropriate punishment for him regarding his classroom outburst?

Joseph's behavior and potential punishment will be discussed in a special IEP meeting known as a Manifest Determination Hearing. This meeting will be attended Joseph's mother, Joseph himself (even though he is not yet 14 years of age, it is common to have the child present during the hearing even though they would not be present in a regular IEP meeting), Joseph's regular classroom Math and English teachers, his Principal, the Middle School Special Education teacher, the District Special Education Director (Supervising LSSP), the Campus Diagnostician (an LSSP), an attorney representing the school or district (sometimes attending via teleconference), and possibly an attorney representing Joseph's mother. Paraprofessionals who work with Joseph and/or his teachers may also be called into the hearing to testify. Joseph's mother may also ask lay advocates or sympathetic school staff to attend the hearing on her behalf.

This is a different process than a regular ARD meeting, in that the ARD committee must consider Joseph's rights and well-being, as well as the rights and well-being of the other students and his teachers. According to school district policy any student eligible for services under the Individuals with Disabilities Education Act (IDEA) or Section 504 of the Rehabilitation Act are subject to discipline in accordance with those laws, and if the potential punishment might involve a change in placement, then a Manifest Determination Hearing must be held.

A manifest determination for a student like Joseph with a disability would involve a review of his misconduct, his demeanor, his disciplinary history, his intent at the time of the misconduct, a review of his disability and his capacity based upon this disability to appreciate the wrongfulness of his actions, and the educational services provided to Joseph in order to determine if his behavior resulted from an inappropriate placement or educational service, or if his misconduct resulted (manifested) because of his disability. If the misconduct resulted from either his disability or an inappropriate placement or service, then Joseph could not be expelled but his placement could be changed. If the misconduct is determined not to have resulted from either his disability or his placement or educational services, then Joseph would be open to the same disciplinary penalties as any regular education student, including expulsion.

If suspension is chosen as a punishment, we know from *Goss v. Lopez* (1975) that "A student must be afforded the right to due process in a case of suspension. This due process can be in the form of oral or written notice of the charges, and a hearing in which the opportunity to respond is afforded". For this reason, combined with the fact that parents often disagree with the punishment meted out, a Due Process Hearing will often result from the Manifest Determination Hearing.

Assuming Joseph's mother wishes to challenge the disciplinary action suggested for him, what

recourse does she have? According to Texas law and school district policy, what due process rights does Joseph have in this situation?

Due process is detailed for both regular and Special education students in the school district's Student Code of Conduct, which is based upon Texas Senate Bill 133, Chapter 37: Discipline; Law and Order.

Due process begins in most school districts with an appeals process in which the decision can be appealed to the Superintendent of Schools and the School Board. Various forms of mediation are also typically available as appeals work their way through the lower levels of due process.

In this case, a Due Process Hearing would be the ultimate venue for Joseph's mother to challenge the suggested disciplinary action. The Due Process Hearing will be concerned whether the law was followed and Joseph received the assistance mandated in his IEP (procedural due process), as well as whether Joseph's mother was kept informed of his progress and had sufficient participation opportunities to be involved in her son's education (substantive due process). Based on the complaints Joseph's mother has raised about his treatment in class and the alleged "mistreatment" by his teacher, coupled with her feeling that the disciplinary action is unfair, the hearing will likely focus more on substantive due process (the way the law was carried out rather than the law itself).

A Special Education Due Process Hearing Officer (Hearing Officer) is in charge of the hearing. The Hearing Officer is neutral and does not take the side of either party; the officer's job is to listen to the evidence and arguments of both parties, and at the conclusion of the hearing write a Final Decision and Order detailing his determination and the course of action both parties must follow. A Due Process hearing typically consists of opening statements, presentation of evidence, witnesses who are examined and cross-examined, exhibits, objections, and closing statements.

Joseph's mother has the right to have her attorney present at the hearing, but she must pay for the attorney herself; she does not have a right to have an attorney provided for her if she cannot afford it, and the Hearing Officer does not have the right to award her any attorney fees even if Joseph's mother prevails.

Based on your lectures, readings, and communication with educators at your school, you now have an opportunity to recommend ways in which special education evaluation, accommodation, and communication can be improved. Use this final section to outline ways in which you feel the process can be improved.

Is the IEP development process in place at your school or district effective? If not, what suggestions do you have for how any of the components of this scenario can be improved?

Despite the inevitable room for improvement, I feel confident based on my staff interviews and analysis of our Special Education program in light of what I have learned that the IEP process in place in our District is effective. Based on my Special Education staff interviews, the IEP process could be improved through more collaboration between the regular education and Special Education teachers, providing more time to share the responsibilities of implementing the IEP while mentoring the regular education teachers on methods of implementing the accommodations in more effective ways. Also, I discovered that the need for additional support from the Special Education teachers and staff while implementing IEPs in the classroom would probably be the regular education teacher's main suggestion for improving the process.

I feel collaboration between the Special Education and regular education teachers would be enhanced through targeted professional development delivered in a large group setting consisting of campus Special Education, regular education and substitute teachers, and the administrative team, focusing on the teacher's role in the collaborative team support process. This training should elaborate the Least Restrictive Environment (LRE) model, making sure the regular education teachers understand that the IEP is based upon the Texas Essential Knowledge and Skills (TEKS) curriculum and contains specific, measurable goals and accommodations to help students with special needs master the TEKS in the LRE. The professional development would present research-based strategies for minimizing behavioral problems in the classroom, tools for motivating and engaging diverse learners, appropriate interventions for challenging behaviors, techniques for keeping students on-task, and ways to accommodate differing learning styles including differentiated instructional practices that benefit students with learning difficulties.

I would also seek to improve teacher support by assigning Special Education teachers and staff as mentors to the regular education teachers who have Special Education students in their classrooms, and schedule specific times, outside of ARD meetings or other formal meeting times, for these mentors to assist their mentees in implementing best practices for the support and education of our Special Education students. I believe Special Education funding could be put to good use by providing extra duty pay to these teachers to accommodate mentoring sessions outside of the hectic traditional school day, but I would have to verify this with my Superintendent and Finance Director.